



May 2, 2006

Commissioner of Social Security
Social Security Administration
P.O. Box 17703
Baltimore, Maryland 21235-7703

RE: **SSA: Medicare Part B Income-Related Monthly Adjustment Amount**
71 Federal Register 10926, March 3, 2006

Dear Sir or Madam:

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking (NPRM) related to the Social Security Administration's (SSA) implementation of the Income-Related Monthly Adjustment Amount for Medicare Part B determinations. This new subpart would implement section 811 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (P.L. 108-173). The NPRM contains the proposed rules for determining when, based on income, a monthly adjustment amount will be added to a Supplementary Medical Insurance (Medicare Part B) beneficiary's standard monthly premium.

The proposed rule closely tracks the provisions of the statute, and determines how Medicare beneficiaries enrolled in Medicare Part B who have modified adjusted gross income (AGI) over a threshold amount (\$80,000 for those who file with a single status; \$160,000 for a joint status) will pay an income-related monthly adjustment amount in addition to the Medicare Part B standard monthly premium and any applicable premium increases.

Our comments focus on: when SSA will notify beneficiaries about the additional amount of the premium; a request that SSA use modified AGI information for two years prior to determining whether the beneficiary must pay an income-related monthly adjustment amount; and, the time-frame that beneficiaries be given to seek a reconsideration or a new determination.

Preamble

Notice to Beneficiaries. In the background section of the Preamble, the SSA observes that individuals who are Medicare beneficiaries prior to January 1, 2007, will be notified at the end of 2006 about the additional amount of the premium and any related changes in the amount of their Social Security monthly benefits, or other payments from which your premiums will be withheld (railroad retirement or Civil Service annuity payments). Individuals who are enrolled after January 1, 2007 and are determined to have incomes qualifying for the income-related monthly adjustment will be notified shortly after they enroll in Medicare Part B.

AARP would like to encourage that these notices be sent as early as possible in order to ensure that beneficiaries have sufficient time to adjust their finances. For example, SSA should send out the notices no later than October 31st for premium adjustments beginning in January 2007. It is especially important in the first year of implementation for beneficiaries to receive advance notice since many are unlikely to be expecting the premium adjustment. In addition, there are likely to be start up (or administrative) issues related to the accuracy of the income data reported to SSA by the Internal Revenue Service (IRS), and the determinations made by SSA. In addition, early notice will give both beneficiaries and the SSA time to respond to disagreements related to income determinations, thus reducing the numbers of retroactive adjustments that are required.

We would also encourage SSA to provide beneficiaries with written information that outlines the premium percentage increase associated with their AGI, in relation to the federal premium subsidy effective in 2007.

Determination of Income-Related Monthly Adjustment Amount. Section 1839(i)(4) of the Act requires SSA to request information about modified AGI from the IRS in the Department of the Treasury, and to use this information to determine if Medicare beneficiaries must pay an income-related monthly adjustment amount. SSA will request that IRS send SSA Federal income-tax return information about modified AGI for the tax year which is two years before the effective year. If income information is not available from IRS for the tax years two years before the effective year of SSA's determination, IRS will send income information for the tax year three years before that year it exceeds the threshold. SSA emphasizes that it will use information for three years prior to determine whether the beneficiary must pay an income-related monthly adjustment amount only until information for two years prior becomes available.

In the event that the IRS does not have data to provide regarding an individual's modified AGI, they will not be making income-related monthly adjustment amount determination in such situations because this individual's income would also be below the modified AGI. However, if SSA receives information which indicates that an individual who has not filed a tax return has income which exceeds the established threshold for an income-related monthly adjustment amount, they will make such a determination.

AARP is concerned that it is in the interest of all parties (government and beneficiaries) that the AGI from two years past is used in order to prevent the need for retroactive adjustments. It is our hope that the Department of the Treasury is able to provide the appropriate electronic data well in advance of October 15th. Timely transactions to SSA are also important in order to facilitate advance notice to affected beneficiaries.

Determination of the Income-Related Monthly Adjustment Amount

What are the modified adjusted gross income ranges

§418.1110 Provides the amount of the 2007 modified AGI ranges for each Federal tax filing category. The proposed rule specifies that CMS will annually revise the modified AGI ranges and publish them in the Federal Register starting in September of 2007 for 2008. Each year thereafter, CMS will publish the amounts for the following year in September of each year.

AARP urges SSA to publish the annually updated modified AGI ranges at the same time that they publish the Part B premium changes. CMS should also indicate the projected amounts for a 5 to 10-year period in the Annual Trustees Report.

What kind of major life-changing event evidence will you need to support your request?

§418.1225 Describes the kind of major life-changing event evidence that will be needed to support a request for SSA to use a more recent tax year's modified AGI.

While AARP supports SSA's inclusion of these additional life-changing events we urge SSA to include additional circumstances, for example, significant reductions or losses in income as a result of decreases in dividend income, especially if those changes resulted in the absence of any self-directed investment decisions for the tax year in question. In addition, AARP would like clarification on whether "interest income" from financial securities (e.g. stocks and bonds) is considered the same as dividend income. Furthermore, while many of these circumstances seem reasonable, some beneficiaries may find such documentation burdensome. For example, establishing proof of divorce many years prior.

Determinations and the Administrative Review Process

§418.301 Proposes to establish a new procedure, a request for a new initial determination, that a beneficiary may use when he or she does not dispute the accuracy of the IRS income information that SSA used, or the determination SSA made based on that information, but the beneficiary wants SSA to use different information.

The beneficiary may provide evidence of a modified AGI for a more recent tax year than the information provided by IRS in the case of a major life-changing event that significantly reduces the beneficiaries income. Or, when the IRS has provided modified AGI from three years prior to the premium effective year and the beneficiary supplies their retained copy of the Federal income tax return for the tax year two years prior. A beneficiary may also request that SSA make a new initial determination in the case of an amended tax return, or when the beneficiary can furnish proof that the IRS has provided incorrect AGI information for the year used to determine their income-related monthly adjustment amount.

AARP suggests that SSA give beneficiaries longer than 60 days after receipt of the notice to seek a reconsideration, or new determination since there is likely to be a lot of beneficiary confusion in the initial year or two of implementation.

By and large, the proposed rule is written quite clearly. However, details regarding the criteria regarding the new determination process could have been more clearly stated in comparison to the rules that apply when a beneficiary can seek reconsideration.

Furthermore, AARP supports policies that allow Medicare to operate as a social insurance program – which provides a set of health benefits defined in law to all eligible Americans and individuals with disabilities, and all beneficiaries are entitled to the same level of benefits, regardless of age, income or health status. Requiring an income or asset test to demonstrate the need for Medicare coverage erodes Medicare's social insurance principle. This change has the effect of subjecting an increasing number of beneficiaries to a higher Part B premium.

Thank you for the opportunity to comment. If you have any questions about our comments please contact Andrea Price of our Federal Affairs Department at 434-3770.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a stylized flourish extending to the right.

David Certner
Legislative Counsel & Legislative Policy Director
Government Relations and Advocacy